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and Satpal S. Kohli

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

AJANTA CORPORATION and
Kishore Kripalani
Plaintiffs
v.
GAYLORD, LLC and
Satpal S. Kohli
Defendants.

CASE NO. CASE NO. C07-2823 MJJ

DECLARATION OF KISHORE KRIPALANI
IN SUPPORT OF MEMORANDUM OF
POINTS AND AUTHORITIES IN OPPOSI-
TION TO MOTION TO DISMISS OR
TRANSFER

1. DECLARTION

2. I, Kishore Kripalani, being sworn to tell the truth under penalty of perjury depose
and say that:

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2 2.1. AJANTA CORPORATION and Kishore Kripalani ("Plaintiffs" meaning either
3 one or both of them) are owners of or licensors to a number of restaurants in Northern Cali-
4 fornia ("California Gaylord restaurants"), in Chicago and in other places in the United
5 States under the famous trademark GAYLORD, registered in the United States Patent And
6 Trademark Office to Plaintiffs.

7 2.2. The San Francisco area and Las Vegas area are major tourist centers and many pa-
8 trons travel frequently back and forth between the two areas.

9 2.3. Plaintiff Kripilani is and has been a resident of California and owner and operator
10 for many years of the world-famous GAYLORD INDIA RESTAURANT located at
11 GHIRARDELLI SQUARE, 900 North Point Street, San Francisco, California,
12 (the GHIRARDELLI RESTAURANT).

13 2.4. Defendant Gaylord was initially formed by Plaintiff Kripilani to do business under
14 the name GAYLORD in the Rio Hotel in Las Vegas, Nevada (Las Vegas Gaylord) as an ex-
15 tension of the GAYLORD restaurants in California.

16 2.5. The décor, layout, operation, cooking, food, staff and other and other attributes of
17 the Gaylord Las Vegas restaurant were planned from California and based upon the Plain-
18 tiffs' California Gaylord restaurants.

19 2.6. Defendant Ajanta Corporation is a California company and owner of the registered
20 trademark GAYLORD.

21 2.7. Plaintiff Kripilani on or about June 17, 2004 sold his interest in Defendant Gay-
22 lord to Defendant Kohli pursuant to a MEMBERSHIP INTEREST PURCHASE AGREE-
23 MENT ("MIPA Agreement").

24 2.8. In about September of 2005, Plaintiffs first opened a new Plaintiffs' California
25 Gaylord restaurants in Sausalito, CA.

26 2.9. The MIPA Agreement required, among other payments, an on going fee of 2% of
27 Defendant Gaylord revenue. Also, it was required that Defendants enter into a Trademark
28 license agreement with Plaintiffs in order to permit Defendants to continue to operate the

1 Las Vegas Gaylord restaurant under the famous trademark GAYLORD like used in the
2 California Gaylord restaurants.

3 2.10. Defendants have stopped paying the required ongoing fee in clear breach of the
4 MIPA Agreement.

5 2.11. Defendants refused to enter into a trademark license agreement and hence Defen-
6 dants are not licensed to use the mark and infringe Plaintiffs' trademark rights.

7 2.12. Plaintiffs offered a trademark license to Defendants in order to enable Defendants
8 to comply with Defendants' obligations to the Rio Hotel and Defendants refused the license
9 choosing instead to infringe Plaintiffs' trademark rights and breach Defendants' obligations
10 to the Rio Hotel.

11 2.13. Advertising by Defendants have depicted one of Plaintiffs' California Gaylord res-
12 taurants and the Las Vegas Gaylord restaurant side by side whereby Defendants have inten-
13 tionally caused confusion in California and done injury to Plaintiffs in California.

14 2.14. California Gaylord restaurants as a result of intentional acts of advertising by the
15 Las Vegas Gaylord restaurant have received telephone calls from local California patrons
16 trying to make reservations at the Las Vegas Gaylord restaurant.

17 2.15. As a result of the Las Vegas Gaylord advertising directed at patrons of California
18 Gaylord restaurants, the patrons are surprised to learn that the Las Vegas Gaylord restaurant
19 is a trademark infringer of Plaintiffs' trademark.
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2 2.16. The poor business practices of Defendants have run the Las Vegas Gaylord busi-
3 ness downhill and caused poor financial performance for the Las Vegas Gaylord so that De-
4 fendants' intentional association of the Las Vegas Gaylord restaurant with Plaintiffs' Cali-
5 fornia Gaylord restaurants intentionally aggravates the injury to Plaintiffs in California.

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7 Dated: September 25, 2007

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9
10 By:

11 /S/ Kishore Kripilani

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17 /S/ David E. Lovejoy

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20 David E. Lovejoy*
21 Attorney for Plaintiffs
22 AJANTA Corporation
Kishore Kripilani

23 *I hereby attest that I have on file all holograph signatures for any signatures indi-
24 cated by a "conformed" signature (/S/) within this document.
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